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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MERKLING, MATTHEW J

ART UNIT

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1795

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/827,187	Applicant(s) BAVARIAN ET AL.	
	Examiner MATTHEW J. MERKLING	Art Unit 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/10/08 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 17, 20, 21, 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens (US 2002/0155329) in view of Monzyk et al. (US 6,503,298).

Regarding claims 17, Stevens discloses a method for generating a hydrogen-rich reformat (see abstract), the method comprising the steps of:

reacting a hydrocarbon fuel in a catalyst bed (41, 42) comprising a reforming catalyst and carbon dioxide fixing material (paragraph 0007, lines 1-6) to produce a reformat comprising hydrogen and carbon dioxide, the carbon dioxide fixing material fixing at least a portion of the carbon dioxide in the reformat to produce an intermediate reformat (paragraph 7, lines 10-12).

While Stevens discloses a hydrogen generation process from a reforming unit for use in a fuel cell, Stevens fails to explicitly disclose the steps of:

-removing hydrogen from the intermediate reformat by flowing the intermediate reformat through a first purification bed comprising a hydrogen fixing material to produce a hydrogen-depleted gas and fixed hydrogen; and

releasing the fixed hydrogen from the first purification bed to produce a hydrogen-rich gas;

-claim 21- removing heat from the first purification bed;

-claim 23 - interrupting flow of a feed gas;

-claim 24 – purging the first purification bed to remove hydrogen-depleted gas prior to releasing the fixed hydrogen;

-claim 25 – the hydrogen fixing material comprises a metal hydride;

-claim 26 – the fixed hydrogen is released from the first purification bed by imposing a change in temperature on the hydrogen fixing material;

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-claim 27 – diverting the feed from the first purification bed and flowing the feed through a second purification bed;

-claim 28 – wherein the fixed hydrogen is released from the first purification bed while the feed flows through the second purification bed;

-claim 29 – wherein fixed hydrogen is released from the first purification bed by heating the hydrogen fixing material within the first purification bed with heat derived in part from the second purification bed, and

-claim 30 – releasing fixed hydrogen from the second purification bed by imposing a change in temperature on the hydrogen fixing bed.

Monzyk discloses a preferable hydrogen purification unit that can be used downstream of a reformer (as used in Stevens) and used to produce hydrogen for a fuel cell (col. 18 lines 11-24).

Monzyk teaches a method of purifying hydrogen for a fuel cell comprising the steps:

-removing hydrogen from the intermediate reformat by flowing the intermediate reformat through a first purification bed (sorption state, Fig. 11) comprising a hydrogen fixing material (metal hydride, see claim 23 of Monzyk) to produce a hydrogen-depleted gas and fixed hydrogen (col. 2 lines 32-42); and

-releasing the fixed hydrogen from the first purification bed to produce a hydrogen-rich gas (col. 2 lines 52-55).

-claim 21- removing heat from the first purification bed (thermal swing sorption, col. 5 lines 26-31, see cool water stream in Fig. 11).

-claim 23 - interrupting flow of a feed gas (feed switching during temperature swing cycles, col. 19 line 66 – col. 20 line 3).

-claim 24 – purging the first purification bed to remove hydrogen-depleted gas prior to releasing the fixed hydrogen (see purge step in Fig. 9a).

-claim 25 – the hydrogen fixing material comprises a metal hydride (see claim 23 of Monzyk).

-claim 26 – the fixed hydrogen is released from the first purification bed by imposing a change in temperature on the hydrogen fixing material (col. 2 lines 52-55).

-claim 27 – diverting the feed from the first purification bed (sorption state, see Fig. 11) and flowing the feed through a second purification bed (desorption state, see Fig. 11, this is part of the thermal swing process described by Monzyk, col. 2 lines 32-65, col. 19 line 66 – col. 20 line 3).

-claim 28 – wherein the fixed hydrogen is released from the first purification bed while the feed flows through the second purification bed (see desorption and sorption steps of Fig. 11, col. 2 lines 32-65, col. 19 line 66 – col. 20 line 3).

-claim 29 – wherein fixed hydrogen is released from the first purification bed by heating the hydrogen fixing material within the first purification bed with heat derived in part from the second purification bed (col. 17 lines 38-45, Fig. 8).

-claim 30 – releasing fixed hydrogen from the second purification bed by imposing a change in temperature (heatup) on the hydrogen fixing bed (thermal swing cycle, as described above, col. 2 lines 32-65, col. 19 line 66 – col. 20 line 3).

Monzyk teaches this process as an efficient and preferable way of purifying hydrogen (col. 21 lines 17-24). Furthermore, Stevens discloses the preference for high purity hydrogen for the efficient operation of a fuel cell and lower cost (see paragraph [0006] of Stevens). As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to add the hydrogen purification process of Monzyk to the hydrogen generating process of Stevens in order to provide high purity hydrogen in an efficient way for uses such as in fuel cells.

Regarding claim 20, Stevens, as discussed in claim 17 above, further discloses a water gas shift catalyst contained in the catalyst bed (paragraph [0026] lines 11-19).

5. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens (US 2002/0155329) in view of Monzyk et al. (US 6,503,298), as applied to claim 17 above, and further in view of Golben (US 5,250,368).

Regarding claim 18, modified Stevens, as discussed in claim 17 above, teaches the use of metal hydrides to adsorb/store hydrogen in the first purification bed, but fails to teach removal of water from the reformat stream prior to entry into the first purification bed.

Golben also teaches a metal hydride employed to store/adsorb hydrogen (see abstract).

Golben teaches that water is preferably removed from the hydrogen stream (20) prior to entry into the metal hydride storage vessel (50) as water is damaging to metal hydride

and can decrease the adsorbing efficiency of the metal hydride (col. 5 lines 59-67 and col. 6 lines 5-15).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the water removal step of Golben, into the hydrogen generating process of modified Stevens prior to the purification bed (which comprises metal hydride) in order to prevent the destruction of the metal hydride and the reduction in adsorbing efficiency of the metal hydride.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens (US 2002/0155329) in view of Monzyk et al. (US 6,503,298), as applied to claim 17 above, and further evidenced by Heung (US 5,958,098).

Regarding claim 19, modified Stevens, as discussed in claim 17 above, further discloses a methanation step (44, paragraph [0034]). Moreover, it would have been obvious to place the methanation step of the modified Stevens prior to the first purification bed in order to remove carbon monoxide which is known in the art to be a poison to metal hydrides (see Heung, col. 1 lines 34-38).

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens (US 2002/0155329) in view of Monzyk et al. (US 6,503,298), as applied to claim 17 above, and further evidenced by Schiodt et al. (US 2001/0055560).

Regarding claim 22, Stevens, as discussed in claim 17, fails to disclose the step of monitoring the hydrogen-depleted gas.

Schiodt also teaches a method for producing hydrogen rich gas (see title).

Schiodt teaches a chromatograph that continuously monitors the effluent from a hydrogen producing reactor as a way to monitor the effect of the catalyst, as in determining when it is becoming deactivated (paragraph [0037]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the composition monitoring step of Schiodt to the hydrogen generation process of modified Stevens in order to monitor the performance of the catalyst to determine when deactivation takes place.

Response to Arguments

8. Applicant's arguments filed 12/10/08 have been fully considered but they are not persuasive.

On page 10, Applicant argues that there is not sufficient motivation to combine the teachings of Stevens and Monzyk by stating that the combination is merely based on conclusory statements. The examiner respectfully disagrees with this argument. Stevens teaches a method of forming a hydrogen containing stream and goes on (as stated in the above office action) to state that higher purity hydrogen provides better operation of a fuel cell. Monzyk teaches a method of further purifying a hydrogen stream and then feeding said hydrogen stream to a fuel cell. The examiner finds these teachings to be sufficient to persuade one of ordinary skill in the art to utilize the purification process of Monzyk with the hydrogen generation process of Stevens in order to provide a fuel cell with higher purity hydrogen.

Conclusion

9. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW J. MERKLING whose telephone number is (571)272-9813. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexa Neckel can be reached on (571) 272-1446. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. J. M./

Examiner, Art Unit 1795

/Alexa D. Neckel/

Supervisory Patent Examiner, Art Unit 1795